



AN EDUCATIONAL SERVICE OF THE  
COLORADO RIVER WATER CONSERVATION DISTRICT

### RICD's

Colorado's water rights system received a significant addition two years ago with the creation of a new type of water right: the "Recreational In-Channel Diversion," or RICD. Recreation and tourism are now significant factors in the economies of many towns, cities, regions and for the state of Colorado as a whole. The "Old West" economy of agriculture and extractive industries, such as mining and logging, is giving way to a "New West" economy that is increasingly dependent upon recreation and other tourism-oriented activities and businesses. Adapting to this economic shift, Colorado's water rights system has evolved in step with this change in economic forces.

The first RICD was filed by the City of Fort Collins on the Cache La Poudre River in 1986 to benefit fish, recreation and wildlife. Two diversion dams were built to control the river's flow, but no water was diverted out of the stream bed, nor was any of the water physically consumed. At that time, Fort Collins' filing for a water right of this type looked to be an application for an "in-stream flow" water right, a type of water right that can only be held by the State of Colorado through a statewide agency called the Colorado Water Conservation Board (CWCB). Consequently, Fort Collins' filing of a recreational water right was challenged in court. The Colorado Supreme Court found that if water was sufficiently controlled by man-made structures, the water right could be considered as "diverting" water within the streambed for a beneficial use. Traditionally, water rights become "perfected" when water is physically diverted out of a water source.

This case prompted the Colorado General Assembly to pass Senate Bill 216 in 2001, clearly establishing RICDs as a legal, beneficial use of water and directing the CWCB to establish rules governing this new type of water right. The law now grants RICDs "the minimum stream flow necessary for a reasonable recreational experience" between two points on a stream where water can be shown to be diverted, captured or controlled by human manipulation of the stream.

A number of municipalities throughout Colorado have filed for RICD water rights for kayak courses and water parks and see them as tremendous recreational and economic resources, Vail, Aspen, Breckenridge, and Gunnison among them. The City of Golden's whitewater park on Clear Creek has reputedly contributed over \$23 million to the local economy in just three years.

RICD's are not without controversy, however. Being on par with other water rights, a RICD can "call out," or shut off, any water right with a junior priority date when there is not enough water present to meet its adjudicated amount.

Just like other water rights, RICD's must be approved by Colorado's water courts and must be shown not to harm any other existing water rights.

Though Colorado's system of water rights has been in place since the 1860's, it is a system that has not remained in the past. No longer does water have to be removed from a stream to serve a beneficial use. RICDs join Colorado's in-stream flow program as two means for keeping water in streams rather than removing it. In 1973, Colorado became one of the first states to develop an in-stream flow program as a means of preventing streams from completely drying out and causing harm to river, stream and lake environments and habitats due to over-appropriation. As the values of Coloradoans towards their rivers, streams and lakes changes with the times, so does the system of water rights continue to adapt.